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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,841	07/17/2003	James M. Baker	BAKJ 8706US	1765
1688	7590	05/19/2005	EXAMINER	
POLSTER, LIEDER, WOODRUFF & LUCCHESI 12412 POWERSCOURT DRIVE SUITE 200 ST. LOUIS, MO 63131-3615			DOAN, PHUOC HUU	
			ART UNIT	PAPER NUMBER
			2687	

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/621,841

Applicant(s)

BAKER, JAMES M.

Examiner

PHUOC H DOAN

Art Unit

2687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Drawings*

1. The drawings were received on 07/17/03. These drawings are acceptable.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims **1-5, 7-17, and 20** are rejected under 35 U.S.C. 102(e) as being anticipated by **Kovales (US Pub No: 2004/0022371)**.

**As to claim 1**, Kovales discloses a process for recording a greeting or message for a voice mail system comprising (col. 2, par. [0019-0020]): placing a CD on which is recorded at least one track of background music or sound effects into a CD player (col. 4, par. [0044-0045]); accessing a menu on the voice mail system for recording messages and proceeding through the menu to a prompt for starting a recording (col. 6, par. [0055-0056]); and, enabling the CD player to play the track while a user records the greeting or message (col. 3, par. [0039]), the background music or sound effects being recorded together with the speaker's voice so that both are simultaneously recorded in the voice mail system (col. 2, par. [0019-0020], and col. 3, par. [0036]), the background

music or sound effect being subsequently heard whenever the greeting or message is replayed (col. 5, par. [0047]).

**As to claim 2**, Kovales further disclose the process of claim 1 further including formatting the CD with multiple track segments each of which includes background music or a sound effect that can be used as background for the recording (col. 4, par. [0045]).

**As to claim 3**, Kovales further discloses the process of claim 1 further including placing an audible (col. 3, par. [0039]), distinctive note at the beginning of the track, the note being used to synchronize the background music or sound effect with the beginning of the recording (col. 3, par. [0035-0038]).

**As to claim 4**, Kovales further discloses the process of claim 3 in which the tone is an audible note which can be one of i) a frequency outside the bandwidth of the voice mail system, or ii) a frequency inside the bandwidth of the voice mail system, or iii) a complex sound (See col. 6, par. [0056-0067]).

**As to claim 5**, Kovales further discloses the process of claim 3 further including placing an audible note at the end of the track, the note being used to synchronize the background music or sound effect with the end of the recording (See col. 3, par. [0036], and col. 6, par. [0056]).

**As to claim 7**, Kovales further discloses the process of claim 3 further including playing the CD until the audible note is heard and then pausing play of the CD **"playing the CD has pausing button, col. 11, par. [0014-0015]"** until the user is ready to record (col. 6, par. [0056]).

**As to claim 8**, Kovales further discloses the process of claim 7 further including recommencing play of the CD **“such as a removable diskette or other media which may be locally attached, col. 3, par. [0039]”** when the user begins recording the greeting or message (col. 4, par. [0045]).

**As to claim 9**, Kovales further discloses the process of claim 8 further including continuing play of the CD throughout the recording interval so there is a continuous background throughout the greeting or message (col.7, par. [0066]).

**As to claim 10**, Kovales further discloses the process of claim 8 further including stopping play of the CD prior to the beginning of the greeting or message so the background serves as an introduction to the greeting or message (col. 7, par. [0062]).

**As to claim 11**, Kovales discloses a process for recording a greeting or message for a voice mail system comprising (col. 2, par. [0019-0020]): accessing an internet website on which is recorded at least one track or audio clip of background music or sound effects and selecting an audio clip to be recorded on the voice mail system (col. 3, par. [0039]); accessing a menu on the voice mail system for recording messages and proceeding through the menu to a prompt for starting a recording (col. 6. par. [0055-0056], and col. 7, par. [0068]); and, enabling play of the selected audio clip from the website while a user records the greeting or message on the voice mail system (col. 10, par. [0086-0087]), the background music or sound effects being recorded together with the speaker's voice so that both are simultaneously recorded on the voice mail system (col. 2, par. [0019-0020], col. 3, par. [0036], col. 7, par. [0066]), the background music or sound effect being synchronized with the greeting or message (col. 5, par. [0047]).

**As to claim 12**, Kovales discloses a process for recording a greeting or message for a voice mail system comprising (col. 2, par. [0019-0020]): placing a CD on which is recorded at least one track of background music or sound effects into a CD player (col. 3, par. [0039], and col. 4, par. [0045]; and, enabling the CD player to play the track while a user records the greeting or message on the voice mail system (col. 3, par. [0039]), the background music or sound effects being recorded together with the speaker's voice so that both are simultaneously recorded on the voice mail system (col. 2, par. [0019-0020], and col. 3, par. [0036]), the background music or sound effect being synchronized with the greeting or message (col. 3, par. [0036], and col. 6, par. [0056]).

**As to claim 13**, this claim is rejected for the same reason as set forth in claim 3.

**As to claim 14**, this claim is rejected for the same reason as set forth in claim 5.

**As to claim 15**, this claim is rejected for the same reason as set forth in claim 10.

**As to claim 16**, this claim is rejected for the same reason as set forth in claim 9.

**As to claim 17**, Kovales discloses a CD for use in for recording a greeting or message for a voice mail system comprising (col. 3, par. [0039]): a disc on which is recorded at least one track of background music or special effects (col. 4, par. [0044-0045]), the disc being played together with the recording of a voice speaking a greeting or message so they are simultaneously recorded (col. 2, par. [0019-0020], and col. 3, par. [0036]); and, an audible note at the beginning of the track used to synchronize the background music or sound effect with the beginning of the recording (col. 3, par. [0035-0038]).

**As to claim 20**, Kovales further discloses the CD of claim 17 which is a stereo disk **"other media which may be locally attached"** (col. 3, par. [0039]).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims **6, 18-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kovales in view of **Kosoburd (US Pub No: 2003/0206503)**.

**As to claim 6**, Kovales discloses all the limitation in claim 1. However, Kovales does not specific disclose the process of claim 5 in which the CD includes multiple tracks each having multiple segments.

Kosoburd discloses the process of claim 5 in which the CD includes multiple tracks each having multiple segments (col. 1, par. [0002], and col. 2, par. [0016-0017]). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the CD includes multiple tracks as taught by Kosoburd to the process of Kovales in order to having a useful in operating the drive.

**As to claim 18**, this claim is rejected for the same reason as set forth in claim 6.

**As to claim 19**, this claim is rejected for the same reason as set forth in claim 5.

**Conclusion**

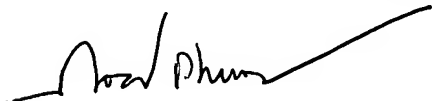
6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Doss (US Pub No: 2003/0193558) discloses "Media-enhanced greetings and/or responses in communication systems".


Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUOC H DOAN whose telephone number is 571-272-7920. The examiner can normally be reached on 9:30 AM - 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESTER G KINCAID can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Phuoc Doan  
05/06/05

  
5/16/05  
LESTER G. KINCAID  
PRIMARY EXAMINER